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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,075	11/14/2000	David E. Wenstrup	5060	9044

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EXAMINER

WACHTEL, ALEXIS A

ART UNIT	PAPER NUMBER
1764	8

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/712,075

Applicant(s)

WENSTRUP, DAVID E.

Examiner

Alexis Wachtel

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## ***Detailed Action***

### ***Response to Amendment***

1. Applicant's amendment and accompanying Remarks filed 11-14-2000 have been entered and carefully considered.

The amendment is sufficient to overcome the obviousness rejections of claims 1-11 and the 112 2<sup>nd</sup> paragraph rejections of claims 10. Claim is cancelled without prejudice. However, an updated search yielded new prior art that provides a new basis of rejection as shown below. Applicant's arguments are rendered moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5591289 to Sounders et al in view of US 6,008,149 to Copperwheat.

Sounders et al is directed to headliners and teaches a headliner comprising a fibrous core with a cover on its front or passenger side providing an aesthetically pleasing ceiling surface (Col 4, lines 26-28). The fibrous core is formed from a nonwoven high loft batting of polymeric thermoplastic fibers having a small percentage of lowmelting temperature binder fibers that have been formed into a web that is then needled (Col 4, lines 33-38). Examples of the

fibers used to make the batting include polyester or polyolefins (Col 4, lines 46-49). The binder fibers that may be used include a low-melt polyester or polyolefins (Col 4, lines 53-55). The cover material may include nonwoven carpeting or knitted polyester tricot material. The cover material is coated with a heat activated adhesive on its backside such as polyester powder to bond the cover material. (Col 5, lines 37-41). The resultant headliner is strong, lightweight and self supporting (Col 3, lines 25-27).

Sounders et al as set forth above fails to teach a headliner wherein a nonwoven cushioning layer is disposed in between the cover layer and batting material. Copperwheat teaches a composite made of polyester that can be used as a headliner (Col 2, lines 12-16). The composite structure includes two different fabrics. The fabric layers constituting the composite are made of nonwoven fibrous material. At least one fabric is a formable fabric , which upon final molding under heat and pressure, possesses a relatively high degree of strength and stiffness. The other fabric is a variable compression fabric (Col 2, lines 19-24). The two different fabric layers can have an adjacent fabric layer constituting a facing fabric can be applied to the outer surface of either of the layers for the purpose of enhancing the appearance of articles (Col 2, lines 29-33). In addition, the fabric layers can be consolidated by mechanical needlepunching (Col 2, lines 44). Since Copperwheat teaches that the formable fabric can be sandwiched in between two other fabric layers or placed adjacent to at least one of said fabric layers to obtain a durable composite, it would have been obvious for one of ordinary skill to have included the formable fabric layer in between the facing

layer and adjacent to the fibrous core or adjacent to at least the fibrous core of Souders et al's headliner, wherein the formable layer is attached to the bulky fibrous core by needlepunching. One of ordinary skill would have been motivated by the desire to improve the strength and durability of the resulting headliner. In addition, one of ordinary skill would have needed the formable fabric layer to the fibrous core motivated by the desire to make use of a well known composite consolidation technique that performs equally well as compared to an adhesive. Examiner notes that the formable layer has cushioning properties to some extent.

With regards to claims 4-7, the references as set forth above fail to teach the claimed weight percentile range and amounts of low melting temperature fibers in the nonwoven batting. However, it would have been obvious to one of ordinary skill to have optimized the strength, stability and bonding characteristics of the nonwoven batting by selecting the relative proportions or amounts of the components through the process of routine experimentation.

With regards to claim 8, the references as set forth above fail to teach the claimed batting layer thickness range. However, since the batting layer takes up the bulk of the headliner's volume, it would have been obvious for one of ordinary skill to have optimized the strength and stability of the nonwoven batting by selecting the claimed thickness range through the process of routine experimentation.

With regards to claim 9, the references as set forth above fail to teach the claimed thickness range of the formable layer (cushion layer) or lofty nonwoven web thickness range. However, the use of a formable layer and lofty nonwoven

layer that are together too thick will result with an undesirably heavy composite. The use of a formable layer and lofty nonwoven layer that are together too thin would results with a composite lacking the required durability. Thus, the skilled artisan would have determined the optimal balance between these two performance characteristics by modifying the thicknesses of both formable layer (cushion layer) and lofty nonwoven through the process of routine experimentation.

Regarding claim 11, the method limitation relating to the placement of the nonwoven batting material and formable layer (cushion layer) is given no patentable weight since the formable layer (cushion layer) and batting layer as taught by the references above do not have a machine or cross direction.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Glenn Caldarola can be reached at (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Elizabeth M. Cole*  
ELIZABETH M. COLE  
PRIMARY EXAMINER